

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 13-CR-192 (RTR)

MARIANO MEZA,

Defendant.

MOTION TO STRIKE SURPLUSAGE FROM THE INDICTMENT

Mariano Meza, by undersigned counsel, respectfully moves that the Court strike from the indictment in this case language that is surplusage and prejudicial. Specifically, the defendant requests that the Court strike the phrase, “a/k/a Mariano Alelandro Meza-Rodriquez,” or, in the alternative, “Mariano A. Meza,” in the caption of the indictment and from any other place in the indictment or pleadings filed in this case.

In support of this motion, Meza states as follows:

1. The caption and the single-count indictment returned and filed in this case lists the defendant as Mariano A. Meza, a/k/a Mariano Alelandro Meza-Rodriquez. The defendant contends that the use of the phrase “a/k/a Mariano Alelandro Meza-Rodriquez” in the context of this case is inherently prejudicial and at a minimum, surplusage.

2. It does not appear from the language of the indictment that the additional “a/k/a” phrase is necessary to identify this defendant.
3. Discovery provided by the government so far does not indicate that Meza has attempted to use one name in place of the other in an effort to conceal his identity.
4. “A/K/A” is law enforcement shorthand for “also known as” and is frequently used to refer to individuals who have tried to hide or disguise their identity through the use of an alias or false name. There is no indication here that Meza used either name to hide his real identity.
5. Persons of Mexican descent are given hyphenated last names as a sign of respect to both their paternal and maternal heritage. For simplicity, only one of the last names, the one stemming from the paternal lineage, is often used. Potential jurors may be unfamiliar with this concept.
6. According to Federal Rule of Criminal Procedure 7(c)(1), “the indictment or information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged.” Subsection (d) allows permits the Court to strike surplusage from the indictment or information upon the defendant’s motion. Fed. R. Crim.

P. 7(c),(d).

7. Here, the use of the alias is prejudicial because it portrays Meza as one who used different names to hide his true identity. It serves no purpose and has the potential to mislead jurors, and thus it should be stricken under Fed. R. Crim. P. 7.

Dated at Milwaukee, Wisconsin this 31st day of July, 2014.

Respectfully submitted,

/s/ Julie K. Linnen

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